

**San Benito County Agricultural Commissioner's Office
Pesticide Use Enforcement Work Plan
FY 2007/2008**

Available Pesticide Use Enforcement Resources

- (1) Deputy Ag. Commissioner @ 37%
- (1) Deputy Sealer of Weights & Measures @ 28%
- (1) Biologist/Inspector III @ 44%
- (1) Biologist/Inspector II @ 41%
- (1) Biologist/Inspector I @ 53%
- (1) Biologist/Inspector I @ 45% (to be hired early winter 2007)
- (1) Agricultural Technician @ 9%

The percent of worktime dedicated to PUE activities are actual Fiscal Year 2006/2007 (FY 06/07) percentages with the exception of the Biologist/Inspector I at 45%. This Biologist/Inspector position is new and is expected to be filled by December. The 45% figure is an estimate for the upcoming FY 07/08. Staff time will be expended this year to bring this new employee up to full capability by the end of the fiscal year.

The other staff member's workload in PUE activities is not expected to change significantly for FY 07/08. The Agricultural Technician assists in performing Pre-site inspections as described under the Site-Monitoring Plan. In the work plan below where a reference is made to an "Inspector/Biologist," it also includes the two Deputy personnel.

Other Assets

Each Biologist/Inspector has a radio-equipped vehicle, a digital camera, and a cell phone. They also have their own office with a networked computer equipped with email, broadband Internet access, and capable of issuing Restricted Materials Permits via the RMPP program. At this time, there is no equipment available for the new Inspector/Biologist position. They will share equipment with other personnel until the proper equipment can be acquired.

Pesticide Use Enforcement Workload (actual FY 06/07 numbers)

- Restricted Material Permits issued: 166
- Operator ID numbers issued: 104
- Private Applicators certified: 32
- Notices of Intent received: 1,723
- Pesticide Use Reports received (calendar 2006 total): 22,061

A. Restricted Materials Permitting

Permit Evaluation-Process Evaluation and Improvement Planning

Permit-Evaluation

Applicants who wish to apply restricted materials will contact this office prior to obtaining a restricted materials permit. At this time the inquiry is transferred to an Agricultural Inspector/ Biologist who has the appropriate pesticide use enforcement license. The applicant is questioned on the particulars of his/her proposed application. Questions are asked regarding the location, who will do the application, the timing of the proposed application, and what restricted materials will be applied.

The first question will ask if the applicant is the one who owns or controls the property. The applicant must be the one who has the full authority to start, stop, or otherwise control the use of the pesticides covered by the permit. The person who oversees the application of restricted materials must be a certified applicator. Normally, the person who will do the application will take an exam and become a certified private applicator if they are not already a certified applicator. Occasionally, the use of restricted materials will be conducted solely by a licensed Pest Control Business, and the applicant will not be supervising its use or be involved in training employees. In certain situations, the applicant will not become a certified applicator and the restricted material permit will be conditioned to only allow handling, transportation, and storage of restricted materials by the Pest Control Business.

Next, the proposed pesticides are evaluated as far as their impact to the surrounding environment. These would include residences, schools, susceptible crops, waterways, etc. The identification of these sensitive areas are noted on a map that is prepared and reviewed by both the applicant and the Inspector/Biologist. Maps are reviewed for accuracy each time the permit is issued. If needed, the use of the restricted material is conditioned to mitigate any hazard identified in the surrounding area.

The Inspector/Biologist may use a permit condition from a pre-made list or may write a specific condition to address a mitigation measure to reduce the environmental impact of a restricted material. Conditions may include specific buffer zones, application timing constraints, or restrictions on the method of application. For some pesticides, the County will use the suggested permit conditions that have been developed by DPR.

After a restricted materials permit is issued, the applicant must notify the county agricultural commissioner at least 24 hours before the proposed application of a restricted material. In almost all cases, the applicant or their pest control business will send the appropriate NOI via fax. Occasionally, the applicant will hand deliver the notice in person during normal business hours or by way of a drop box at the office. The NOIs are reviewed during the workday as they are received. Proposed applications for field fumigations involving methyl bromide have different notification requirements.

Each Saturday at 2:00 PM, the on-call Inspector/Biologist will review the NOIs that were received after the office closed on Friday afternoon. The NOIs received on Sunday are reviewed immediately on Monday morning at the start of the business day. On three-day weekends, the NOIs is checked on both Saturday and Sunday at 2:00 PM.

Goal or Objective

- Continue to review and update the standard permit conditions as regulations, policies, development, and local conditions change.

Deliverables

- As needed, the standard permit conditions are modified to reflect changes in regulations, policies, development, and local conditions.

Site-Monitoring Plan

Site-Monitoring Plan Development

Throughout the year, the County conducts inspections of proposed application sites as identified by the NOIs that are received. As required by regulation, the County will personally field check at least 5% of the notices of intent received. This field check (pre-site inspection) is done before the proposed application date to double-check if the proposed application can be done safely. The NOIs are evaluated by the Inspector on Duty as they are received. NOIs that are felt to pose more than an ordinary hazard are flagged for a Pre-site inspection.

In addition to NOIs selected by the Inspector on Duty, a pre-site inspection is conducted on all NOIs for metam sodium applications that are scheduled near sensitive sites. Normally, pre-site inspections are normally conducted by the Inspector/Biologist who has been assigned “pesticide duty” for the month. An Agricultural Technician under the supervision of the Deputy Agricultural Commissioner will also conduct pre-site inspections.

To ensure that our pre-site inspection goal is reached by the end of each FY, the year is divided into quarters and the number of pre-site inspections is recorded. The progress is monitored by a Deputy to ensure that the yearly goal is reached.

Goal or Objective

- Continue pre-site inspections of metam sodium applications near sensitive areas.
- As required by regulation, each non-ag permit issued needs to be inspected once a year.
- As NOIs are reviewed, continue to flag and field check proposed applications that are scheduled near sensitive sites such as susceptible crops, residences, and other occupied structures.

Deliverables

- The number of pre-site inspections are reviewed every quarter to ensure that we are at or exceed our 5% requirement.
- The Inspector on Duty will monitor incoming NOIs for non-ag permits and flag for inspection.

Measure Success

- The goal of site monitoring is to prevent adverse environmental and health effects from the result of misapplications. The number of application-related incidents, or the lack of, can determine the success of our site-monitoring plan.
- At the end of the season, compare the number of inspections for non-ag permits to the number of PURs submitted.

B. Compliance Monitoring

Comprehensive Inspection Plan

Comprehensive Inspection Plan

Inspections involving the application of pesticides are conducted either when Inspector/Biologists are conducting surveillance specifically for pesticides or when an application is noticed when doing other Agriculture/Weights & Measures activities. Each Inspector/Biologist is assigned a month where they are expected to perform an assigned number of inspections. Prior to leaving the office for surveillance, the Inspector/Biologist will review that day's NOIs. The Inspector/Biologist will base his priorities for the day based on the location and type of applications proposed.

Headquarter inspections are generally scheduled in advance with the operator. The selection of the operator to audit is based on a number of factors. These include the number of employees, the frequency and type of applications (including toxicity of pesticides generally used), the growing of labor-intensive crops, and their location. Headquarter inspections are often conducted as a result of a follow-up to a non-compliance found during a field inspection. The number of headquarter and pest control dealer inspections have declined in the past two years due to shifting resources to emphasize application and mix/load inspections.

At the completion of inspections, copies of the inspections are placed in the operator's permit file. Also, the name of the operator and the type of inspection is logged into the inspection binder. This is done to track what inspections have been done to which operator and so their compliance history can be checked. Each Inspector/Biologist follows up on the non-compliances found during the inspections after advising a Deputy with their findings.

The inspections are also reviewed by the Deputy Agricultural Commissioner on a monthly basis. As with the pre-site inspections, the numerical progress of completed inspections is monitored by a Deputy on a quarterly basis.

The two-year average for inspections is as follows:

Type of Inspection	2-year average	FY 06/07 Goal
Application	36	36
Mix-Load	25	25
Structural	1	1
Field Worker Safety	15	15
Fumigation	2	2
Pest Control Records (Operators)	7	10
Pest Control Records (Dealers)	1	1

Application and mix-load inspections have been split approximately 1/3 on grower/operators and 2/3 on commercial pest control businesses.

Despite the fact that we will have an additional staff member for part of this FY, we are anticipating that inspection levels for this FY will stay at or near the past two-year average. This is due to two reasons: (1) it is expected that the new Inspector/Biologist will primarily be in training for this FY, and (2) the diversion of staff to quarantine activities because of the recent find of Light Brown Apple Moth in adjacent counties.

Goal or Objective

- Continue the inspection program that is in place with emphasis on even distribution of inspections throughout the year. Also, the current inspection balance between Pest Control Business and owner/operators will be kept.
- Internal review of inspections with emphasis on appropriate follow-up to non-compliances found.
- Total inspection numbers for this FY shall be within 90% of our two-year average.
- Pest Control Dealers will be audited on a rotating basis (there are three dealers in County, the goal will be one audit per FY).

Deliverables

- Write down quarterly goals for inspections.
- The Deputy will monitor inspection progress throughout the year.
- Target late night and early morning applications for inspections.

Measure Success

- Monitor progress of the activities that are listed under deliverables.

Investigative Response and Reporting Improvement

Investigation Response and Reporting

Priority incidents and routine illnesses are immediately assigned to a Biologist/Inspector for investigation. An investigation's progress follows the timelines established by DPR and reports are written in the appropriate format. The County receives very few incident reports, no more than 2-3 per year. A priority investigation is very rare, usually occurring only once every other year.

Complaints from the public are normally routed to the Inspector-on-duty. Often, complaints can be resolved on the phone. If not, the complaint is referred to another Inspector/Biologist for either record and/or field investigation. Complaints are placed in file for review by the DPR Enforcement Branch Liaison on monthly basis. In the past, not all complaints were logged and forwarded to DPR.

Goal

- Document all complaints.

Deliverables

- On a monthly basis, summarize the complaints to DPR on Report #5.

Measure Success

- Monitor the complaint log to ensure that all complaints are being logged, completed, and available for review by DPR.

C. Enforcement Response

Enforcement Response Evaluation

When an inspection, complaint, or investigation is completed, the Inspector/Biologist reviews the operator's pesticide file for the party involved. In each file, copies of past actions are kept. The Inspector/Biologist reviews the past history to determine if violations have been noted in the past. A Deputy is advised of the situation and the enforcement response regulations are consulted to determine the appropriate level of enforcement action. The hazard of the non-compliance along with the violator's past history is considered when determining the enforcement response.

Based on (1) the circumstances of the current violation, (2) the past violations found in the file, and (3) the enforcement response regulations, the Commissioner is consulted to determine the appropriate action for this incident. In situations where a civil penalty is not assessed, a decision report is completed when required. The decision report is

forwarded to DPR for their review and approval. When violations are uncovered involving priority investigations or any other case where the violations created an actual health or environmental hazard, then other enforcement options will be considered, such as referral to the District Attorney.

Generally, actions are taken within the month that the inspection/investigation was completed.

Goal or Objective

- Effective enforcement system that promotes compliance by the regulated industry.

Deliverables

- Review individual operator files when inspections are done to verify if the current enforcement program has resulted in increased compliance.

Measure Success

- Determine effectiveness of the enforcement program by reviewing rates of non-compliances that are uncovered during inspections.